

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

MARCUS E. MALLETT

PLAINTIFF

V.

CIVIL ACTION NO. 3:17-CV-409-DPJ-FKB

WARDEN MARY RUSHING, ET  
AL.

DEFENDANTS

ORDER

Defendants in this § 1983 case moved for summary judgment [43]. United States Magistrate Judge F. Keith Ball entered a Report and Recommendation [48] recommending that the motion be granted in part as to all conditions-of-confinement claims and his excessive-force claims against Warden Rushing and Sheriff Mason. Judge Ball recommended that the motion be denied in part as to the excessive-force claims against Deputies Allen, Owens, and Lacy. No party filed objections to the Report and Recommendation, and the time to do so has now expired.

The Court, having reviewed the unopposed Report and Recommendation, adopts it as its opinion. Defendants' Motion for Summary Judgment [43] is granted in part, and the conditions-of-confinement claims, as well as the excessive-force claims against Warden Rush and Sheriff Mason, are dismissed. The Court will set the excessive-force claims against Deputies Allen, Owens, and Lacy for a bench trial. Defense counsel should contact the undersigned's Courtroom Deputy, Shone Powell, within seven days of the entry of this Order to discuss scheduling the trial.

**SO ORDERED AND ADJUDGED** this the 19th day of August, 2019.

s/ Daniel P. Jordan III  
CHIEF UNITED STATES DISTRICT JUDGE